

REMARKS

By this amendment, claims 20-50 have been renumbered as claims 21-51. Claims 10-15, and renumbered claims 22-35, 37-40, and 42-51 have been amended. Claims 1-19 and renumbered claims 21-51 remain pending in the subject application.

A concise explanation of the relevance of the patents not in English language is being filed with this Response to Office Action in compliance with 37 CFR § 1.98(a)(3). Applicants respectfully request the information referred in the disclosed patents to be considered during examination.

Formal drawings that incorporate the changes to the drawings filed on April 7, 2003 are filed with this Response to Office Action.

Claim Numbering

In response to paragraph 1 of the Office Action, the claims 20-50 have been renumbered as claims 21-51 in compliance with 37 CFR § 1.126. It is respectfully submitted that, after renumbering, claims 1-19 and 21-51 are pending in the subject application.

Restriction Requirement

The Office Action, in paragraph 2, imposes a restriction requirement to restrict the claims into two groups: claims 1-26 and 46-51 as Group I, and claims 27-45 as Group II. This restriction requirement is respectfully traversed.

The Office Action asserts that claims 1-25 and 46-51 are drawn to a cantilever liftgate assembly and claims 27-45 are drawn to a liftgate. It is respectfully submitted that claims 27-45 are also directed to a cantilever liftgate.

The specification of the subject application states, in Paragraph 18, that as used herein, the term cantilever refers to liftgates having a platform supported at one end only. For example, platform 40 is supported by the pivotal attachment to distal pivot members 32.

Independent claim 27 calls for, a platform having a first side rotatably attached to the pivot member of the lift frame, the platform being supported at the first side only. Independent claim 36 claims a vehicle body assembly including a vehicle body and a cantilever liftgate. Independent claim 41 claims a cantilever liftgate for use with a vehicle having a bed and calls for, among other things, a liftgate platform rotatably attached to the distal pivot members; and a stop configured mounted on each parallelogram linkage adjacent the distal pivot member to prevent a rotation of the liftgate platform. The combinations of these and other elements specified in independent claims 27, 36, and 41, and their respective dependent claims 28-35, 37-40, and 42-45 are drawn to a cantilever liftgate structure, regardless whether the claims cite the phrase "cantilever liftgate" in the preamble.

Accordingly, claims 27-45 are also drawn to a cantilever structure. Applicants hereby respectfully request the withdrawal of the improper restriction requirement.

Information Disclosure Statement

The Office Action, in paragraph 3, objects to the Information Disclosure Statement filed May 6, 2003 as not in compliance with 37 CFR § 1.98(a)(3). A concise explanation of the relevance of the patents not in English language is being filed with this Response to Office Action in compliance with 37 CFR § 1.98(a)(3). Accordingly, Applicants respectfully request the information referred in the disclosed patents to be considered during examination.

Drawings

In response to paragraph 4 of the Office Action, formal drawings that incorporate the changes to the drawings filed on April 7, 2003 are included in this Response to Office Action.

Rejection of Claims 12 and 15-19 under 35 U.S.C. § 112

Claims 12 and 15-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as invention.

By this amendment, claims 12 and 15 have been amended. The amendment to claims 12 and 15 have placed claims 12 and 15-19 in compliance with 35 U.S.C. § 112, second paragraph, thereby overcoming the rejection of claims 12 and 15-19 under 35 U.S.C. § 112.

**Rejection of Claims 1-14, 21-26, and 46-51
under 35 U.S.C. § 103**

In paragraph 8, the Office Action rejects claims 1-14, 20-26, and 46-51 under 35 U.S.C. § 103. It is respectfully submitted that, after renumbering claims 20-50 to claims 21-51 in accordance with paragraph 1 of the Office Action, the rejection of claim 20 is moot. Accordingly, Applicant assumes that the Office Action rejects claims 1-14, 21-26, and 46-51 under 35 U.S.C. § 103(a) as being unpatentable over Dunlop et al. (U.S. Patent No. 5,641,262, hereinafter referred to as "Dunlop") in view of Mortenson (U.S. Patent No. 4,078,676, hereinafter referred to as "Mortenson"). This rejection is respectfully traversed.

Dunlop discloses in column 3, lines 6-10, that attached to the upper portions of vertical brackets 3A, 3B are mounting brackets 7A, 7B which allow the entire mainframe 1 to be attached by conventional means to the rear of a vehicle as shown in FIGS. 5A, 5B, and 5C onto which the lift gate is to be attached. Dunlop also discloses in column 4, lines 57-62, that when opened, the lift gate 87 is maintained in a horizontal position by means of two lift cables 89A, 89B which are each affixed at one end to the top of the vertical mounts 85A, 85B and at the other ends to the outer edge of the lift gate 87.

With respect to Element 81 mentioned in paragraph 8 (page 4) of the Office Action, Dunlop discloses in column 4, lines 16-21, that upper hinge arms 35A, 35B are pivotally attached to lift frame 81. The pivotal attachment may be made up of a pin 90, a bushing 91 and a snap ring 92 which holds

the pin in place, or other conventional pivots may be used. Lower hinge arms 37A, 37B are pivotally attached by similar means to vertical brackets 3A, 3B and lift frame 81.

It is respectfully submitted that the lift disclosed by Dunlop is not cantilevered from the vehicle body as asserted in paragraph 8 (page 5) of the Office Action. The load on lift gate platform 87 is supported by the tension in lift cables 89A, 89B and the pressure on hinge pin 91 through holes 92A, 92B drilled in the bottoms of the vertical mounts 85A, 85B and inserted through a tube 94 which is affixed to the vehicle side of the lift gate 87 (Fig. 1).

Mortenson discloses in column 3, lines 8-17, that a lift gate assembly includes a fixed frame 10 which is designed to be fixedly mounted upon the frame 12 of a truck T or other load carrying vehicle at the rear of the load carrying bed B. Frame 10 includes a pair of relatively heavy transversely spaced vertical webs 14 which are fixedly secured at their upper ends to the truck frame to suspend and fixedly support a horizontal transversely extending torque tube 16. Mortenson also discloses in column 3, lines 41-51, that a generally triangular mounting bracket 30 is formed on or fixedly secured to platform 28 at each of the opposite ends of its forward edge 32. Bracket 20 projects upwardly from the upper surface of platform 28 and is formed with a link receiving slot 34 into which one end of a tension link assembly 36 projects and is pivotally connected by pivot 38. Tension link assembly 36 is pivotally coupled to fixed link 18 by a pivot pin 40 and constitutes a third link of a parallelogram linkage, while that portion of bracket 30 between pivots 38 and 26 constitutes the fourth link of the "four bar" linkage. In

Fig. 1, Mortenson shows a truck bed extension plate 46 extending laterally beyond vertical webs 14.

With respect to Element 48 mentioned in paragraph 8 (page 5) of the Office Action, Mortenson discloses in column 4, lines 7-20, that platform 28 has a pair of fixedly mounted forwardly projecting pins 48 located at the front edge of the platform adjacent each side of the platform. A downwardly turned flange 50 at the rearward edge of extension plate 46 is formed with elongate slots such as 52 (FIG. 3) into which pins 48 project when the platform 28 is at its elevated position, shown in broken line in FIG. 3. When received within slots 52, pins 48 function to *prevent further upward movement* of platform 28, thereby establishing its upper limit of movement, while at the same time the pins prevent any transverse sway of platform 28 (left to right as viewed in FIG. 2) relative to the stationary extension plate 46.

It is respectfully submitted that the lift disclosed by Mortenson does not have cantilever structure. The load on lift gate platform 28 is supported by compression links 22 in linkages 20 and tension assemblies 36 (Fig. 1). Accordingly, like Dunlop, Mortenson neither teaches nor suggests a cantilever structure with a liftgate platform rotatably attached to the lift frame and supported at one end only.

Claim 1 calls for, among other things, a unitary frame, the unitary frame comprising an opposing pair of side plates and an extension plate extending between the side plates; and a liftgate platform rotatably attached to the lift frame and supported at one end only. A combination of these and other elements specified in claim 1 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination.

Furthermore, Dunlop explicitly teaches away from this combination of claim elements in Figs. 1, 4, 5A, 5B, and 5C. Mortenson also teaches away from this combination of elements specified in claim 1 in column 3, lines 8-17, and in Fig. 1. Therefore, modifying the teaching of Dunlop with the teaching of Mortenson cannot make claim 1 obvious.

Claims 2-9 depend from claim 1 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 1. Claim 4 further sets out that the side plates in the unitary frame further comprise formed steps. Claim 6 further sets out impact bumpers attached to the unitary frame. Claim 8 further sets out that the lift frame further includes a lift frame tube configured to function as an underride guard. Claim 9 further sets out that the liftgate includes at least one upper stacking member and at least one lower stacking member, and wherein a profile of the lower stacking member is configured to nest with a profile of the upper stacking member. At least the combinations of these and other elements specified in claims 4, 6, 8, and 9 are neither taught nor suggested by Dunlop and Mortenson, either singly or in combination, further precluding the obviousness of claims 4, 6, 8, and 9.

Claim 10 calls for, among other things, a unitary frame, the unitary frame comprising an opposing pair of side plates and an extension plate extending between the side plates; and a liftgate platform rotatably attached to the lift frame and supported at one end only. A combination of these and other elements specified in claim 10 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Furthermore, Dunlop explicitly teaches away from

this combination of claim elements specified in Figs. 1, 4, 5A, 5B, and 5C. Mortenson also teaches away from this combination of elements specified in claim 10 in column 3, lines 8-17, and in Fig. 1. Therefore, Dunlop in view of Mortenson cannot make claim 10 obvious.

Claims 11-14 depend from claim 10 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 10.

Claim 21 calls for, among other things, providing a unitary frame comprising an opposing pair of side plates and an extension plate extending between the side plates; and rotatably attaching a liftgate platform to the lift frame so that the platform is supported at one end only. A combination of these and other elements specified in claim 21 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Furthermore, Dunlop explicitly teaches away from this combination of claim elements in Figs. 1, 4, 5A, 5B, and 5C. Mortenson also teaches away from this combination of claim elements in column 3, lines 8-17, and in Fig. 1. Therefore, modifying the teaching of Dunlop with that of Mortenson cannot make claim 21 obvious under 35 U.S.C. § 103.

Claims 22-26 depend from claim 21 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 21. Claim 23 further sets out stacking the liftgate on top of another liftgate. Claim 24 further sets out packing and shipping the stacked liftgates together. Claim 26 further sets out attaching a motion limit member to the pivot member of the lift frame to confine a motion of the liftgate platform between a first orientation and a second orientation substantially perpendicular to each other. At least the

combinations of these and other elements specified in claims 23, 24, and 26 are neither taught nor suggested by Dunlop and Mortenson, either singly or in combination, further precluding the obviousness of claims 23, 24, and 26.

Claim 46 calls for, among other things, providing a unitary frame comprising an opposing pair of side plates and an extension plate extending between the side plates; rotatably attaching a liftgate platform to a pivot member of the lift frame so that the platform is supported at one end only; and attaching a motion limit member to the pivot member of the lift frame. A combination of these and other elements specified in claim 46 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Furthermore, Dunlop explicitly teaches away from this combination of claim elements in Figs. 1, 4, 5A, 5B, and 5C. Mortenson also teaches away from this combination of elements specified in claim 46 in column 3, lines 8-17, with reference to in Fig. 1, and in column 4, lines 7-20, with reference to Fig. 3. Therefore, claim 46 is allowable over Dunlop in view of Mortenson.

Claims 47-51 depend from claim 46 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 46. Claim 49 further sets out stacking the cantilever liftgate on top of another cantilever liftgate. Claim 50 further sets out packing and shipping the stacked cantilever liftgates together. Claim 51 further sets out that attaching a motion limit member to the pivot member of the lift frame includes confining a motion of the liftgate platform between a first orientation and a second orientation substantially perpendicular to each other. At least the

combinations of these and other elements specified in claims 49-51 are neither taught nor suggested by Dunlop and Mortenson, either singly or in combination, further precluding the obviousness of claims 49-51.

Rejection of Claims 15-19 under 35 U.S.C. § 103

Claims 15-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mortenson in view of Dunlop. This rejection is respectfully traversed.

As stated in paragraph 9 of the Office Action, Mortenson does not show side plates to be secured to the vehicle body. It is respectfully submitted that Dunlop does not teach or suggests the side plates adapted to secure the unitary frame to an underside of a vehicle body. Dunlop clearly shows in Figs. 5A, 5B, and 5C that attached to the upper portions of vertical brackets 3A, 3B are mounting brackets 7A, 7B which allow the entire mainframe 1 to be attached by conventional means to the rear of a vehicle (column 3, lines 6-10). Because neither Mortenson nor Dunlop teaches or suggests the side plates securing the unitary frame to an underside of a vehicle body, the combination of these two references will fail to teach or suggest a combination of this element and other elements. Furthermore, Mortenson and Dunlop do not teach or suggest, either singly or in combination, a liftgate platform rotatably attached to the distal pivot members and supported at one end only.

Claim 15 calls for, among other things, a unitary frame having an opposing pair of side plates and an extension plate extending between the side plates, wherein the side plates are adapted to secure the unitary frame to an underside of a

vehicle body; a liftgate platform rotatably attached to the distal pivot members and supported at one end only; and a stop mounted on each parallelogram linkage adjacent the distal pivot member and configured to prevent rotation of the liftgate platform away from the upper and lower arms past a generally horizontal orientation parallel with the bed of the vehicle body and configured to allow rotation of the liftgate platform toward the upper and lower arms to a generally vertical position perpendicular with the vehicle body when in a lowered position. At least a combination of these elements and other elements specified in claim 15 is neither taught nor suggested by Mortenson and Dunlop, either singly or in combination. Therefore, claim 15 is allowable over Mortenson in view of Dunlop.

Claims 16-19 depend from claim 15 and are therefore allowable over Mortenson in view of Dunlop for at least the same reasons as claim 15.

Claims 27-45

Independent claim 27 calls for, among other things, a platform having a first side rotatably attached to the pivot member of the lift frame, the platform being supported at the first side only; and a motion limiting stop attached to the lift frame adjacent the pivot member and configured to limit a motion of the platform. Independent claim 36 calls for, among other things, a liftgate platform rotatably attached to the lift frame. Independent claim 41 claims a cantilever liftgate for use with a vehicle having a bed and calls for, among other things, a liftgate platform rotatably attached to the distal pivot members; and a stop configured mounted on each

parallelogram linkage adjacent the distal pivot member to prevent a rotation of the liftgate platform.

The combinations of these and other elements in independent claims 27, 36, and 41, and their respective dependent claims 28-35, 37-40, and 42-45 are not taught or suggested in Mortenson and Dunlop, either singly or in combination. Therefore, Claims 27-45 are allowable over the relied on references of Mortenson and Dunlop.

CONCLUSION

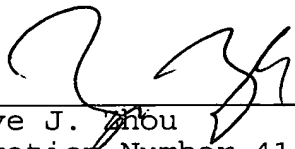
In view of above, claims 1-19 and 21-51 currently pending in the subject application are believed to be allowable and the subject application is in condition for allowance. Such action is respectfully requested.

In an effort to achieve an efficient prosecution of the subject application, Applicants respectfully request for a telephone interview with the Examiner to resolve the issue if the Examiner finds the amendment and remarks presented in this Response to Office Action to be deficient in placing subject application in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees to Manatt, Phelps & Phillips' Deposit Account No. 50-1847 or to credit any overpayment to the same for all matters during the prosecution of the subject application.

Respectfully submitted,

MANATT, PHELPS & PHILLIPS
Attorneys for Applicants


By: Ziye J. Zhou
Registration Number 41,423

Date: October 28, 2003

Manatt, Phelps, & Phillips
1001 Page Mill Road, Building 2
Palo Alto, CA 94304
Tel: 650-812-1300
Fax: 650-213-0260



PATENT
23451-037

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:
Karapet Ablabutyan, et al

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Attorney Docket No.: 23451-037

Filed: March 15, 2001

For: UNITARY LIFTGATE

Group Art Unit: 3652

Examiner:
James W. Keenan

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**Concise Explanation of the Relevance of the Patent not in English Language under
37 CFR § 1.98(a)(3)(i)**

Mail Stop: Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This Concise Explanation of the Relevance of the Patent not in English Language under 37 CFR § 1.98(a)(3)(i) is in response take the content of German Patent DE 3,739,267 into consideration during the examination of the above identified application for patent.

CERTIFICATE OF MAILING
(37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'United States Postal Service First Class Mail' in an envelope addressed to Mail Stop: Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

October 28, 2003
Date of Deposit
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Kendra Staedler
Name of Person Mailing Paper
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Objection to Information Disclosure Statement

In paragraph 3 of the Office Action mailed July 28, 2003, the Examiner objects to the Information Disclosure Statement filed May 6, 2003 as not in compliance with 37 CFR § 1.98(a)(3). In response thereto, a concise explanation of the relevance of the German Patent DE 3,739,267 is presented herein below. Accordingly, Applicant respectfully requests the information referred in German Patent DE 3,739,267 to be considered during examination.

German Patent DE 3,739,267 discloses a lifting device that has a narrow side wall frame (12) configured to move in a transverse plane of the vehicle by means of two swinging arms. A lifting plate (26) is on the side wall frame (12) in a swing-out manner. Front and rear hinged plates (30, 34) are mounted in a swing-out manner on the lifting plate (26).

German Patent DE 3,739,267 teaches a lifting device for use with a vehicle that is relevant to the subject matters of the subject application for patent.

CONCLUSION

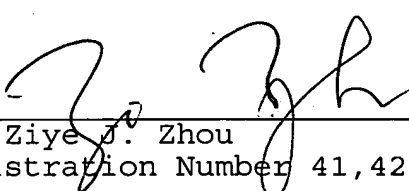
The above a concise explanation of relevance of German Patent DE 3,739,267 has placed the Information Disclosure Statement filed May 6, 2003 in compliance with 37 CFR § 1.98(a)(3). Accordingly, Applicant hereby respectfully requests the information referred in German Patent DE 3,739,267 to be considered during examination.

The Commissioner is hereby authorized to charge any additional fees to Manatt, Phelps & Phillips' Deposit Account

No. 50-1847 or to credit any overpayment to the same for all matters during the prosecution of the subject application.

Respectfully submitted,

MANATT, PHELPS & PHILLIPS
Attorneys for Applicants


By: Ziye J. Zhou
Registration Number 41,423

Date: October 28, 2003

Manatt, Phelps, & Phillips
1001 Page Mill Road, Building 2
Palo Alto, CA 94304
Tel: 650-812-1300
Fax: 650-213-0260

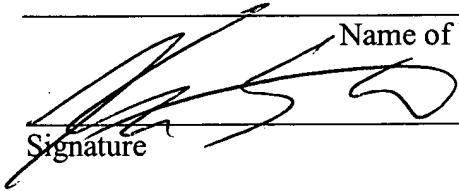


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Date of Deposit

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